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82D CONGRESS }
2d Session }

SENATE

{ REPORT
{ No. 2096

PROVIDING FOR TERMS OF COURT TO BE HELD AT WEST PALM BEACH, AND AT FORT MYERS, IN THE SOUTH- ERN DISTRICT OF FLORIDA

JULY 4 (legislative day, JUNE 27), 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the
following

REPORT

[To accompany H. R. 948]

The Committee on the Judiciary, to which was referred the bill (H. R. 948) providing for terms of court to be held at West Palm Beach, and at Fort Myers, in the southern district of Florida, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

LEGISLATIVE HISTORY

An identical bill, H. R. 544, passed the House in the Eighty-first Congress but no action thereon ensued in the Senate.

PURPOSE

The purpose of the bill is to provide for holding terms of court at West Palm Beach and Fort Myers for the United States District Court for the Southern District of Florida.

STATEMENT

The southern district of Florida comprises 45 counties, and court is held at Fernandina, Fort Pierce, Jacksonville, Key West, Miami, Ocala, Orlando, and Tampa.

The bill provides for a term of court at West Palm Beach and Fort Myers. Your committee is informed that there is a substantial volume of legal business originating in both places.

2 PROVIDE TERMS OF COURT IN SOUTHERN DISTRICT OF FLORIDA

At the present time Miami is the closest place of court to West Palm Beach, while Tampa is closest to Fort Myers. The underlying purpose of establishing courts in these cities is to relieve persons having business in the court in the vicinity of the two places of the burden and expense of traveling to distant places.

The committee is informed that local facilities will be provided for court quarters and accommodations at no expense to the Government. Thus the restrictions and limitations of section 142 of title 28, United States Code, are complied with. Moreover, if the volume of legal business in either place should decrease to a point where a term of court would not be warranted there is ample power and discretion in existing law whereby a term of court may be pretermitted for insufficient business or other good cause (28 U. S. C. 140).

The enactment of this legislation has been recommended by the board of governors of the Florida bar.

After consideration of the foregoing, the committee is of the opinion that the bill H. R. 948 is meritorious and recommends that the bill be considered favorably.

Attached as a part of this report are letters from the Administrative Office of the United States Courts and the Department of Justice to the Honorable Pat McCarran, chairman, Committee on the Judiciary of the United States Senate, pertaining to S. 431, which is identical with H. R. 948.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
March 2, 1951.

HON. PAT MCCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate Washington, D. C.*

DEAR SENATOR MCCARRAN: Pursuant to my letter to you of January 26, I consulted Chief Judge Hutcheson of the fifth circuit, in which Florida is situated, concerning the bill to provide for terms of the district court for the southern district of Florida at West Palm Beach and Fort Myers (S. 431). Judge Hutcheson has informed me that the Judicial Council of the Fifth Circuit considered the bill and expressed the following views:

"Their general view with regard to creating new divisions is that, 'from the standpoint of economy and efficiency in the conduct of the Federal judicial system, it is not advisable to add to the number of places of holding court unless in particular places this is imperatively required by the public convenience.' They do, however, recognize that the matter is 'one of policy for the determination of the Congress,' and where the district judges affected favor the creation of a new division or divisions, they would normally not put themselves in opposition."

In the case of the particular bill Judge Holland and Judge Barker of the district court for the southern district of Florida with headquarters in the southern portion of the district, Miami and Tampa favor the addition of West Palm Beach and Fort Myers to the places of holding court as the bill provides. Circuit Judge Strum, who formerly was the chief judge of the southern district of Florida with headquarters at Jacksonville, states that, while he would not actively recommend, he would not oppose the addition of two new places of holding court. In this situation the other members of the judicial council "feel that the matter should go to the Congress without an adverse recommendation from the council."

With kind regards, I am,

Sincerely yours,

HENRY P. CHANDLER.

PROVIDE TERMS OF COURT IN SOUTHERN DISTRICT OF FLORIDA 3

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, February 14, 1951.

Hon. PAT McCARRAN,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 431) to provide for terms of court to be held at West Palm Beach and at Fort Myers, in the southern district of Florida.

The bill would amend title 28, United States Code, by adding West Palm Beach and Fort Myers as places for holding court in the southern district of Florida.

Existing law provides that court for the southern district of Florida shall be held at Fernandina, Fort Pierce, Jacksonville, Key West, Miami, Ocala, Orlando, and Tampa.

So far as the work of this Department is concerned, there is no indication of a need for additional places for holding court in the southern district of Florida. The Department does not maintain a deputy marshal or an assistant United States attorney at either Fort Myers or West Palm Beach.

There has been a growing tendency in recent years to reduce, rather than to increase, the number of places for holding court. This matter has been the subject of considerable study and discussion by the Judicial Conference of the United States in its effort to achieve economy and efficiency in the operation of the Federal courts. At its meeting in September 1948 the Conference recommended that section 138 of title 28, United States Code, be amended so as to provide that, notwithstanding the present provisions of law requiring court to be held in designated places, those provisions may be changed or abolished by rule of the district court upon a finding that the public interest so requires and upon approval by the judicial council of the circuit. The Conference expressed the view that the proposed change in the law would result in economy of operation and promote the efficient dispatch of court business. These views were reaffirmed by the Conference at its March 1950 meeting.

It may also be mentioned that section 141 of title 28, United States Code, provides that special terms of district court may be held at such places in the district as the nature of the business may require and any business may be transacted at such a special term which might be transacted at a regular term.

It is assumed that the committee has obtained the views of the Administrative Office of the United States Courts concerning the proposal.

Whether, in the light of the foregoing considerations, the bill should be enacted is a question of legislative policy concerning which the Department of Justice prefers not to make any recommendation.

The Director of the Bureau of the Budget has advised that there is no objection to the submission of this report.

Yours sincerely,

PEYTON FORD,
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, there is printed below in roman existing law in which no change is proposed, with new matter shown in *italic*, and with matter proposed to be omitted enclosed in black brackets:

SECTION 89 OF TITLE 28, UNITED STATES CODE

§ 89. Florida.

NORTHERN DISTRICT

(a) * * *

SOUTHERN DISTRICT

(b) * * *

Court for the Southern District shall be held at Fernandina, *Fort Myers*, Fort Pierce, Jacksonville, Key West, Miami, Ocala, Orlando, [and] Tampa[.], and *West Palm Beach*.

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